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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/893,600	06/29/2001	J. Norman Hansen	108172-00057	6491

4372 7590 07/08/2003

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EXAMINER

CELSA, BENNETT M

ART UNIT	PAPER NUMBER
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1639

DATE MAILED: 07/08/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 09/893,600	Applicant(s) Hansen
	Examiner Bennett Celsa	Art Unit 1639
		
<p>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</p>		
<p>Period for Reply</p> <p>A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>one</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.</p> <ul style="list-style-type: none">Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).		
<p>Status</p> <p>1) <input type="checkbox"/> Responsive to communication(s) filed on _____.</p> <p>2a) <input type="checkbox"/> This action is FINAL. 2b) <input checked="" type="checkbox"/> This action is non-final.</p> <p>3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i>, 1935 C.D. 11; 453 O.G. 213.</p>		
<p>Disposition of Claims</p> <p>4) <input checked="" type="checkbox"/> Claim(s) <u>1-20</u> is/are pending in the application.</p> <p>4a) Of the above, claim(s) _____ is/are withdrawn from consideration.</p> <p>5) <input type="checkbox"/> Claim(s) _____ is/are allowed.</p> <p>6) <input type="checkbox"/> Claim(s) _____ is/are rejected.</p> <p>7) <input type="checkbox"/> Claim(s) _____ is/are objected to.</p> <p>8) <input checked="" type="checkbox"/> Claims <u>1-20</u> are subject to restriction and/or election requirement.</p>		
<p>Application Papers</p> <p>9) <input type="checkbox"/> The specification is objected to by the Examiner.</p> <p>10) <input type="checkbox"/> The drawing(s) filed on _____ is/are a) <input type="checkbox"/> accepted or b) <input type="checkbox"/> objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).</p> <p>11) <input type="checkbox"/> The proposed drawing correction filed on _____ is: a) <input type="checkbox"/> approved b) <input type="checkbox"/> disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action.</p> <p>12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.</p>		
<p>Priority under 35 U.S.C. §§ 119 and 120</p> <p>13) <input type="checkbox"/> Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) <input type="checkbox"/> All b) <input type="checkbox"/> Some* c) <input type="checkbox"/> None of: 1. <input type="checkbox"/> Certified copies of the priority documents have been received. 2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____. 3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</p> <p>*See the attached detailed Office action for a list of the certified copies not received.</p>		
<p>14) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e). a) <input type="checkbox"/> The translation of the foreign language provisional application has been received.</p> <p>15) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.</p>		
<p>Attachment(s)</p> <p>1) <input type="checkbox"/> Notice of References Cited (PTO-892) 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) <input type="checkbox"/> Other: _____</p>		

DETAILED ACTION

Status of the Claims

Claims 1-20 are currently pending.

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-9, drawn to lantibiotic display peptides, classified in class 530, subclass 350.
 - II. Claims 10-19, drawn to recombinant method of making a lantibody display peptide and screening (e.g. immunological) thereof, classified in class 435, subclass 7.1 and 69.1.
 - III. Claim 20, drawn to a kit, classified in class 436, subclass 808.

2. The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case that the product as claimed can be made by another and materially different process e.g. solid/liquid phase peptide syntheses.

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3. Inventions III and II (in part) are related as combination and subcombination.

Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the patentable feature of the combination may reside in the nature of the anti-lantibody antibody and/or means for immunoadsorption which is not present in the host cell .

The subcombination has separate utility such as making a protein or gene expression detection and/or modulation which is distinctly different from the identification of a target molecule. .

4. Because these inventions are distinct for the reasons given above and

- a. have acquired a separate status in the art as shown by their different classification; and/or
- b. difference in manual/computer classification, structure, name and bibliographic searches; and/or
- c. inventions have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

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General information regarding further correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Celsa whose telephone number is (703) 305-7556.

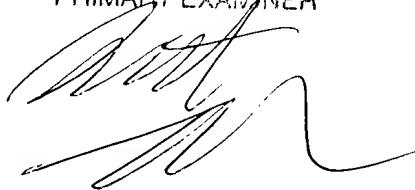
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew J. Wang (art unit 1639), can be reached at (703)306-3217.

Any inquiry of a general nature, or relating to the status of this application, should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Bennett Celsa (art unit 1639)

July 3, 2003

BENNETT CELSA
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read "Bennett Celsa".